

Approved:



BENJAMIN A. GIANFORTI  
Assistant United States Attorney

Before: HONORABLE JUDITH C. McCARTHY  
United States Magistrate Judge  
Southern District of New York

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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:  
UNITED STATES OF AMERICA :  
: 21 Mag. 405  
-v.- : RULE 5(c) (3) AFFIDAVIT  
:  
WILLIAM JOSEPH PEPE, :  
: 21  
: Defendant. :  
:  
-----x

SOUTHERN DISTRICT OF NEW YORK, ss:

JONATHAN WELSH, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation ("FBI"), and charges as follows:

On or about January 11, 2021 the United States District Court for the District of Columbia (the "DDC") issued a warrant for the arrest of "William Joseph Pepe" (the "Warrant"). The Warrant was based upon a complaint charging William Joseph Pepe with one count of knowingly entering or remaining in any restricted building or grounds without lawful authority, in violation of 18 U.S.C. §§ 1752(a)(1) and (2) (the "Complaint"). Copies of the Warrant, Complaint, and supporting affidavit are attached.

I believe that WILLIAM JOSEPH PEPE, the defendant, who was taken into FBI custody on January 12, 2021, in the Southern District of New York, is the same individual as the "William Joseph Pepe" who is wanted by the DDC.

The bases for my knowledge and for the foregoing charges are, in part, as follows:

1. I am a Special Agent with the FBI. I have been personally involved in determining whether WILLIAM JOSEPH PEPE, the defendant, is the same individual as the "William Joseph Pepe" named in the Warrant. Because this Affidavit is being submitted for the limited purpose of establishing the identity of the defendant, I have not included in this Affidavit each and every fact that I have learned. Where I report statements made by others, those statements are described in substance and in part, unless otherwise noted.

2. Based on my discussions with other members of law enforcement, I know that:

a. WILLIAM JOSEPH PEPE, the defendant, was arrested on or about January 12, 2021, at approximately 1 p.m., in White Plains, New York. As the arresting officers approached PEPE, one of them called his name and he turned around. When one of the arresting officers asked PEPE if he knew what he was being approached about, PEPE responded, in substance and in part, "the thing in DC?" When one of the arresting officers asked PEPE what he was referring to, PEPE responded, in substance and in part, "the thing at the Capitol." Based on my review of the Complaint, I understand this to be a reference to the incident alleged therein.

b. Subsequently, PEPE provided his New York State Driver's License and badge issued by the Metropolitan Transit Authority, which confirmed that his name is William Joseph Pepe.

3. Based on my own observation of WILLIAM JOSEPH PEPE, the defendant, I also believe him to be the individual depicted in the photograph contained in the Complaint.

WHEREFORE, deponent prays that WILLIAM JOSEPH PEPE, the defendant, be bailed or imprisoned, as the case may be.

/s/ Jonathan Welsh by JCM on consent  
\_\_\_\_\_  
JONATHAN WELSH (Credential No. 25958)  
Special Agent  
FBI

Sworn to me through the transmission of this Affidavit by reliable electronic means, pursuant to Federal Rules of Criminal

Procedure 41(d) (3) and 4.1 On: January 13, 2021

Judith C. McCarthy  
HONORABLE JUDITH C. McCARTHY  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF NEW YORK

**UNITED STATES DISTRICT COURT**  
for the  
District of Columbia

United States of America

v.  
WILLIAM JOSEPH PEPE

)                          Case: 1:21-MJ-00032  
)                          Assigned to: Judge Zia M. Faruqui  
)                          Assigned Date: 1/11/2021  
)                          Description: COMPLAINT W/ARREST WARRANT  
)

*Defendant*

**ARREST WARRANT**

To: Any authorized law enforcement officer

**YOU ARE COMMANDED** to arrest and bring before a United States magistrate judge without unnecessary delay  
(name of person to be arrested) WILLIAM JOSEPH PEPE,  
who is accused of an offense or violation based on the following document filed with the court:

- Indictment       Superseding Indictment       Information       Superseding Information       Complaint  
 Probation Violation Petition       Supervised Release Violation Petition       Violation Notice       Order of the Court

This offense is briefly described as follows:

18 U.S.C. 1752 (a)(1) and (2) - Knowingly Entering or Remaining in any Restricted Building or Grounds Without Lawful Authority

Date: 01/11/2021

*Issuing officer's signature*

City and state: Washington, DC

Zia M. Faruqui, U.S. Magistrate Judge

*Printed name and title*

**Return**

This warrant was received on (date)                           , and the person was arrested on (date)                             
at (city and state)   .

Date:   

*Arresting officer's signature*

*Printed name and title*

**UNITED STATES DISTRICT COURT**  
for the  
**District of Columbia**

United States of America	)	Case: 1:21-MJ-00032
v.	)	Assigned to: Judge Zia M. Faruqui
WILLIAM JOSEPH PEPE	)	Assigned Date: 1/11/2021
DOB: 07/07/1989	)	Description: COMPLAINT W/ARREST WARRANT
	)	
	)	

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*Defendant(s)*

**CRIMINAL COMPLAINT**

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 6, 2021 in the county of \_\_\_\_\_ in the  
District of Columbia, the defendant(s) violated:

<i>Code Section</i>	<i>Offense Description</i>
18 U.S.C. 1752 (a)(1) and (2)	Knowingly Entering or Remaining in any Restricted Building or Grounds Without Lawful Authority

This criminal complaint is based on these facts:

See attached Statement of Facts

Continued on the attached sheet.



*Complainant's signature*

Paul J. Fisher, Special Agent

*Printed name and title*

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by Telephone (specify reliable electronic means).

Date: 01/11/2021

*Judge's signature*

City and state: Washington, DC

Zia M. Faruqui, United States Magistrate Judge

*Printed name and title*

## STATEMENT OF FACTS

On January 6, 2021, your affiant, Paul J. Fisher, was on duty and performing my official duties as a Special Agent. Specifically, I am assigned to the Federal Bureau of Investigation, Washington Field Office, Squad CR-18, tasked with investigating criminal activity in and around the Capitol grounds. As a Special Agent, I am authorized by law or by a Government agency to engage in or supervise the prevention, detention, investigation, or prosecution of a violation of Federal criminal laws. The U.S. Capitol is secured 24 hours a day by U.S. Capitol Police. Restrictions around the U.S. Capitol include permanent and temporary security barriers and posts manned by U.S. Capitol Police. Only authorized people with appropriate identification are allowed access inside the U.S. Capitol. On January 6, 2021, the exterior plaza of the U.S. Capitol was also closed to members of the public.

On January 6, 2021, a joint session of the United States Congress convened at the United States Capitol, which is located at First Street, SE, in Washington, D.C. During the joint session, elected members of the United States House of Representatives and the United States Senate were meeting in separate chambers of the United States Capitol to certify the vote count of the Electoral College of the 2020 Presidential Election, which had taken place on November 3, 2020. The joint session began at approximately 1:00 p.m. Vice President Mike Pence was present and presiding in the Senate Chamber.

With the joint session underway and with Vice President Mike Pence presiding, a large crowd gathered outside the U.S. Capitol. Temporary and permanent barricades surround the exterior of the U.S. Capitol building, and U.S. Capitol Police were present and attempting to keep the crowd away from the Capitol building and the proceedings underway inside. At approximately 2:00 p.m., certain individuals in the crowd forced their way through, up, and over the barricades and officers of the U.S. Capitol Police, and the crowd advanced to the exterior façade of the building. At such time, the joint session was still underway and the exterior doors and windows of the U.S. Capitol were locked or otherwise secured. Members of the U.S. Capitol Police attempted to maintain order and keep the crowd from entering the Capitol; however, shortly after 2:00 p.m., individuals in the crowd forced entry into the U.S. Capitol, including by breaking windows. Shortly thereafter, at approximately 2:20 p.m. members of the United States House of Representatives and United States Senate, including the President of the Senate, Vice President Mike Pence, were instructed to—and did—evacuate the chambers. Accordingly, the joint session of the United States Congress was effectively suspended until shortly after 8:00 p.m. Vice President Pence remained in the United States Capitol from the time he was evacuated from the Senate Chamber until the sessions resumed.

During national news coverage of the aforementioned events, video footage which appeared to be captured on mobile devices of persons present on the scene depicted evidence of violations of local and federal law, including scores of individuals inside the U.S. Capitol building without authority to be there.

William Joseph PEPE (hereafter PEPE) was photographed inside the United States Capitol during the events that transpired the afternoon of January 6, 2021. The photograph was displayed to the public from various media outlets. After the photograph was displayed for the public, PEPE

was identified as an employee of the Metro Transit Authority (hereafter MTA). MTA's investigation revealed that PEPE used sick leave for January 6, 2021 in order to travel to Washington, D.C. for the aforementioned events. MTA then suspended PEPE. The photograph of PEPE during the events of January 6, 2021 can be found at the following URL: <https://www.nbcnewyork.com/news/local/mta-suspends-metro-north-worker-for-calling-out-sick-to-attend-capitol-riot/2820726/>.



The Federal Bureau of Investigation, New York Field Office, confirmed through a MTA Task Force Officer that PEPE was in fact an employee of MTA and that PEPE used sick leave for the day PEPE was photographed in the United States Capitol. Further, PEPE was identified by MTA employees using the photograph included in this Statement of Facts. PEPE is a MTA employee assigned to the Mechanical Department as a Laborer in the Brewster Yard in New York. MTA provided the following photo:



Based on the foregoing, your affiant submits that there is probable cause to believe that William Joseph PEPE violated 18 U.S.C. § 1752(a)(1) and (2), which makes it a crime to (1) knowingly enter or remain in any restricted building or grounds without lawful authority to do; and (2) knowingly, and with intent to impede or disrupt the orderly conduct of Government business or official functions, engage in disorderly or disruptive conduct in, or within such proximity to, any restricted building or grounds when, or so that, such conduct, in fact, impedes or disrupts the orderly conduct of Government business or official functions; or attempts or conspires to do so. For purposes of Section 1752 of Title 18, a “restricted building” includes a posted, cordoned off, or otherwise restricted area of a building or grounds where the President or other person protected by the Secret Service, including the Vice President, is or will be temporarily visiting; or any building or grounds so restricted in conjunction with an event designated as a special event of national significance.

  
\_\_\_\_\_  
Paul J. Fisher, Special Agent  
Federal Bureau of Investigation

Attested to by the applicant in accordance with the requirements of Fed. R. Crim. P. 4.1 by telephone, this 11<sup>th</sup> day of January 2021.

\_\_\_\_\_  
Zia M. Faruqui  
U.S. MAGISTRATE JUDGE